

ENTERED

February 21, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

YEMANE FHISHAZION,
A-215945211,

Petitioner,

VS.

JOE M. SMITH, WARDEN,

Respondent.

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CIVIL ACTION NO. H-19-4785

ORDER OF DISMISSAL

Petitioner Yemane Fhishazion (A-215945211) filed this petition for a writ of habeas corpus under 28 U.S.C. § 2241, challenging the duration of his confinement by Immigration and Customs Enforcement (“ICE”) officials with the United States Department of Homeland Security (“DHS”). The respondents have filed a motion to dismiss the petition as moot, advising the Court that Fhishazion has been removed from the United States to Eritrea on December 11, 2019, and is no longer in DHS custody. (Doc. No. 9). Fhishazion has not responded to the motion and his time to do so has expired. After considering all of the pleadings and the applicable law, the Court will grant the respondents’ motion and dismiss this case as moot.

I. DISCUSSION

Fhishazion, a native of Ethiopia and citizen of Eritrea, filed this petition to challenge his ongoing custody without a foreseeable removal date under *Zadvydas v. Davis*, 533 U.S. 678 (2001), alleging that he has been held for more than six months after the expiration of the removal period. *Id.* at 701. Respondent has advised the Court that Fhishazion was removed to Eritrea on December 11, 2019. *See* Doc. No. 9 at 1. Fhishazion’s removal from the United States and release from custody renders his habeas corpus petition moot. *See Spencer v. Kemna*,

523 U.S. 1, 7 (1998) (holding that a case becomes moot if it “no longer present[s] a case or controversy under Article III, § 2 of the Constitution” because “[t]he parties must continue to have a ‘personal stake in the outcome’ of the lawsuit”) (quoting *Lewis v. Cont’l Bank Corp.*, 494 U.S. 472, 477-78 (1990)). Because Fhishazion challenged only his continued detention, his release from custody leaves nothing for this Court to remedy. *See id.* at 18. The Court concludes, therefore, that Fhishazion’s petition must be dismissed as moot.

II. ORDER

Accordingly, the Court **ORDERS** as follows:

1. Respondent’s Motion to Dismiss (Doc. No. 9) is **GRANTED**, and this case is **DISMISSED** without prejudice as **MOOT**.
2. All other motions, if any, are **DENIED as MOOT**.

The Clerk will provide a copy of this order to the parties.

SIGNED at Houston, Texas, this 21st day of February 2020.



ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE